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Attorneys for Defendants
BANK OF AMERICA, N.A.,
AETNA LIFE INSURANCE COMPANY and
BANK OF AMERICA GROUP BENEFITS PROGRAM

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CORRECTED

JOHN EMERSON,

Plaintiff,

vs.

BANK OF AMERICA, N.A., a Delaware
Corporation, BANK OF AMERICA
GROUP BENEFITS PROGRAM, AETNA
LIFE INSURANCE COMPANY, and
DOES 1-20, inclusive.

Defendants.

Case No. CV 10-04919 SI

**STIPULATION AND [PROPOSED]
ORDER MODIFYING PRETRIAL
PREPARATION ORDER**

Date: June 25, 2012
Dept: Courtroom 10, 19th Floor
Judge: Hon. Susan Illston

Complaint Filed: 9/14/10
Second Amended Complaint Filed: 3/11/11

Plaintiff John Emerson ("Plaintiff") and Defendants Bank of America, N.A., Bank of
America Group Benefits Program, and Aetna Life Insurance Company ("Defendants")
(collectively, the "Parties"), through their respective counsel present the following stipulation and
proposed order regarding a modification of the Court's April 19, 2012 Pretrial Preparation and

1 Trial Schedule Order, so that the Parties can engage in further mediation.

2 WHEREAS, the Parties commenced mediation activities with Eric Ivary on January 17,
3 2012;

4 WHEREAS, the case did not settle at that time, but the Parties expected to engage in
5 further mediation activities with Mr. Ivary after the Parties conducted some discovery;

6 WHEREAS, the Parties scheduled a further mediation session with Mr. Ivary for April
7 16, 2012, which was cancelled due to Plaintiff's counsel's extraordinary circumstances;

8 WHEREAS, the Parties believe that further mediation will be productive in resolving this
9 action and, therefore, seek modification of the upcoming pretrial discovery and dispositive
10 motion dates to avoid the time and expense of further litigation;

11 WHEREAS, the Parties do not seek to continue the pretrial conference date or trial date
12 currently scheduled in this action.

13 The stipulation is based on the following:

14 WHEREAS, an Initial Case Management Conference was held on October 12, 2011, and
15 the Court set the following dates in its Pretrial Preparation Order:

- 16 1. Expert Discovery Cutoff is May 14, 2012.
- 17 2. Dispositive Motions Shall be filed by May 25, 2012.
18 Opp. Due June 8, 2012; Reply Due June 15, 2012;
19 and set for hearing no later than June 29, 2012 at 9:00 AM.
- 20 3. Pretrial Conference Date: August 14, 2012 at 3:30 PM.
- 21 4. Jury Trial Date: August 27, 2012 at 8:30 AM, Courtroom 10, 19th floor.

22 Special Discovery and Pretrial Provisions: This case shall be referred to the
23 Court's mediation program.

24 WHEREAS, the Court later modified the Pretrial Preparation Order on April 19, 2012,
25 and set the following dates:

- 26 1. Expert Discovery Cutoff is July 2, 2012.
- 27 2. Dispositive Motions Shall be filed by July 16, 2012.
28 Opp. Due July 30, 2012;

1 Reply Due August 13, 2012;

2 And set for hearing no later than August 27, 2012 at 9:00 AM.

3 3. Pretrial Conference Date: October 8, 2012 at 3:30 PM.

4 4. Jury Trial Date: October 29, 2012 at 8:30 AM, Courtroom 10, 19th floor.

5 Trial Length is estimated to be 8 days.

6 **STIPULATION**

7 IT IS HEREBY STIPULATED AND AGREED TO BY AND BETWEEN THE
8 PARTIES by and through their respective counsel of record herein that:

9 1. Expert Discovery Cutoff is August 2, 2012.

10 2. Dispositive Motions shall be filed by August 13, 2012.

11 Oppositions due August 27, 2012;

12 Replies due September 10, 2012;

13 Hearing on dispositive motions: September 24, 2012 at 9:00 AM.

14 3. Pretrial Conference Date: October 8, 2012 at 3:30 PM.

15 4. Jury Trial Date: October 29, 2012 at 8:30 AM, Courtroom 10, 19th floor.

16 Trial Length is estimated to be 8 days.

17 **ORDER**

18 The foregoing Stipulation having been entered and good cause appearing therefor,
19 IT IS HEREBY ORDERD that:

20 The current pretrial deadlines for this case shall be modified as follows:

21 1. Expert Discovery Cutoff is August 2, 2012.

22 2. Dispositive Motions shall be filed by August 13, 2012.

23 Oppositions due August 27, 2012;

24 Replies due September 10, 2012;

25 Hearing on dispositive motions: September 24, 2012 at 9:00 AM.

26 3. Pretrial Conference Date: October ~~8~~ ^{MONDAY, OCTOBER 22, 2012} at 3:30 PM.

27 4. Jury Trial Date: October 29, 2012 at 8:30 AM, Courtroom 10, 19th floor.

28 Trial Length is estimated to be 8 days.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 DATED: June 25, 2012

RUMMONDS & MAIR

3
4 /s/

JAMES S. RUMMONDS, ESQ.

Attorneys for Plaintiff

JOHN EMERSON

7 Dated: June 25, 2012

LAFAYETTE & KUMAGAI LLP

8
9 /s/

REBECCA K. KIMURA

Attorneys for Defendants

10 BANK OF AMERICA, N.A., AETNA LIFE
11 INSURANCE COMPANY and BANK OF
12 AMERICA GROUP BENEFITS PROGRAM

14 PURSUANT TO STIPULATION, IT IS SO ORDERED.

16 DATED: 7/2/12

15
16
17 *Susan Illston*

Honorable Susan Illston

United States District Judge

19
20
21 CERTIFICATE OF SERVICE

22 I certify that a copy of this document was served electronically on June 25, 2012, on
23 counsel of record in compliance with Federal Rule 5, Local Rule 5.6 and General Order 45, by
24 use of the Court's ECF system.

25 /s/ Rebecca K. Kimura

26 REBECCA K. KIMURA